

BEFORE THE
TENNESSEE STATE BOARD OF EQUALIZATION

In Re: Frank G. Stiver)
District 5, Map 103M, Group I, Control Map 103M,) Dickson County
Parcel 301, Special Interest 000)
Residential Property)
Tax year 2006)

INITIAL DECISION AND ORDER

Statement of the Case

The Dickson County Board of Equalization (“county board”) has valued the subject property for tax purposes as follows:

LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT
\$12,600	\$79,400	\$92,000	\$23,000

On July 27, 2006, the property owners filed an appeal with the State Board of Equalization ("State Board").

The undersigned administrative judge conducted a hearing of this matter on December 21, 2006 in Charlotte. In attendance at the hearing were the appellant Frank G. Stiver and Dickson County Assessor of Property Gail Wren.

Findings of Fact and Conclusions of Law

The property in question is a 1,216-square-foot home with an unfinished basement. This ranch-style house was built in 1988 on an approximately 0.45-acre lot near the central business district of Dickson. Frank and Esther Stiver, formerly of Houston, Texas, purchased this home from the United States Department of Veterans Affairs ("VA") on January 5, 2005 for \$82,500. VA, which had foreclosed on the property in June of 2003, had listed it for sale through a nationally recognized real estate brokerage firm at \$90,290. The Stivers' previous offer of \$86,500 in September, 2004 was belatedly accepted by VA the day after it was withdrawn.

In the appellant's view, his purchase price marked the "maximum value" of the subject property. Further, Mr. Stiver claimed, this property was worth even less than the amount paid because of several "major" drawbacks not known to him or his wife at the time of closing: namely, a drainage ditch; two manholes over the municipal sewer line; and surrounding rental

houses of lower quality. Indeed, the appellant declared that he and Ms. Stiver would not have bought the property “at any price” had they been aware of the ditch thereon.

But Ms. Wren maintained that the current appraisal of the property under appeal was supported by three recent sales of older houses in the general vicinity. The sale prices for those homes ranged from \$93,500 to \$108,900.¹ She did not believe VA’s foreclosure sale of the subject property to be an “arm’s-length transaction” or reliable indicator of market value.

Tenn. Code Ann. section 67-5-601(a) provides (in relevant part) that “[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values....”

Since the taxpayers seek to change the present valuation of the subject property, they have the burden of proof in this administrative proceeding. State Board Rule 0600-1-.11(1).

The evidentiary weight of the Assessor’s market analysis is substantially diminished by the fact that two of her comparables – including the one closest to the subject (109 West Rickert Avenue) – sold *after* the January 1, 2006 assessment date. See Acme Boot Company & Ashland City Industrial Corporation (Cheatham County, Tax Year 1989, Final Decision and Order, August 7, 1990). Further, especially without photographs of those properties, meaningful comparison with the subject property is problematical.

Generally, “a bona fide sale of the subject property is considered the best evidence of market value.” International Association of Assessing Officers, Property Appraisal and Assessment Administration (1990), p. 153. But the appellants purchased this property almost one year prior to the assessment date; and sales by governmental entities like VA are commonly “disqualified” in mass appraisal systems because such agencies tend to be highly motivated to dispose of their real estate holdings.

However, given the duration and extent of exposure of the subject property to the open market, this particular transaction cannot be ignored. VA’s asking price, it should be noted, was slightly higher than the amount for which the prior owners had purchased this property in 2002 (\$89,900).

On the other hand, the existing record does not adequately substantiate Mr. Stiver’s propounded value of \$70,000. In fact, the appellant cited no sales other than those involving the very property in question.

¹Oddly, the Assessor’s lowest-priced comparable (109 West Rickert Avenue) had the highest appraised value (\$74,600). It should be noted that Dickson County underwent its last reappraisal in 2001.

In the opinion of the administrative judge, the most accurate barometer of this property's market value on January 1, 2006 is the \$86,500 amount which the appellant offered to pay for the house in 2004. Any discount for the negative influences later discovered by Mr. Stiver would likely have been offset by the generally favorable real estate market conditions during the intervening period.

The property owners are entitled to equalization of the indicated market value in accordance with the overall appraisal ratio in Dickson County for tax year 2006, as adopted by the State Board (.8567).² The resulting value is \$74,100, after rounding.

Order

It is, therefore, ORDERED that the following values be adopted for tax year 2006:

LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT
\$12,600	\$61,500	\$74,100	\$18,525

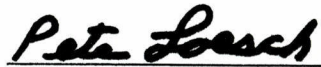
Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review.

²An *appraisal ratio* is a composite average which expresses the relationship between the appraised value and market value of property in a taxing jurisdiction. The ratio is developed from studies of qualified sales of all types of real property. See Tenn. Code Ann. sections 67-5-1604—1606.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 22nd day of January, 2007.



PETE LOESCH
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

cc: Frank G. Stiver
Gail Wren, Dickson County Assessor of Property

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